

Voting

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A. Generally**§ 1. In General; Kinds of Votes****Generally**

The rules of the House identify four methods of voting that are of regular use:

- Voice votes [under Rule I clause 5(a)] in which Members express their voting preference simply by calling out “Aye” or “No” in unison.
- Division votes [Rule I clause 5(a)], in which Members stand to be counted as either for or against a proposition.
- Yea and nay votes, the demand for which requires the support of one-fifth of the Members present (under Article I, § 5 of the Constitution) or which are ordered “automatically” when a Member objects to a pending vote on the ground that a quorum is not present (under Rule XV clause 4). Yea and nay votes are usually taken by electronic device.
- Recorded votes [under Rule I clause 5(a)], which require the support of one-fifth of a quorum. Recorded votes are taken in the same manner as the yeas and nays.

When the House is operating in the Committee of the Whole, all of these commonly used methods of voting are available except for the yeas and nays, a procedure used only in the House. A recorded vote may be ordered in the Committee of the Whole when the demand is supported by at least 25 Members [Rule XXIII clause 2(b)]. It is not in order in the Committee of the Whole for a Member to “object to the vote on the ground that a quorum is not present and make a point of order that a quorum is

not present” (Rule XV clause 4), since the “automatic call” is also a yeas and nays vote.

Sometimes these voting methods are used in various combinations, one after the other, depending on the circumstances. Any Member feeling that the announced result of a voice vote is unsatisfactory may ask for the Chair to take a division vote; and if this result is challenged, a vote of record may be demanded.

Less frequently used but still available on a stand-by basis are (1) roll call votes, in which each Member’s response is given orally as the Clerk calls the roll in alphabetical order (Rule XV clause 1); and (2) votes by tellers with clerks, in which each Member fills out and signs a vote tally card and submits it to a designated clerk teller [Rule I clause 5(a)].

Votes on certain issues are required by House rule to be taken by the yeas and nays. When the Speaker puts the question on final passage of general appropriation bills, on budget resolutions or bills increasing Federal income tax rates, the vote must be taken by the yeas and nays (Rule XV clause 7) and the Constitution requires that the question of passing a bill over the veto of the President must also be by the yeas and nays (Article I § 7). The vote to close a conference committee meeting is also required to be taken by roll call. [Rule XXVIII clause 6(a).]

All votes are in order only when the Chair puts the question. Unauthorized votes, as where a Member asks for a “straw” vote or a “show of hands” are not in order. 95–1, Apr. 27, 1977, p 12548.

Voting in Committees, see COMMITTEES.

Voting by Ballot

Voting on an election in the House by ballot, although authorized by Rule XXXVIII, is largely obsolete. *Manual* § 934. There has been no instance of voting by ballot under this rule since 1868, when the managers of an impeachment proceeding were elected by ballot. 3 Hinds § 2417.

§ 2. The Electronic Voting System

In General

In 1973, an electronic voting system was installed in the House Chamber pursuant to the Legislative Reorganization Act of 1970 and to amendments to House Rule XV (*Manual* § 774b). The purpose of this system was to reduce the time needed to process roll call votes and quorum calls. Under this system, the lengthy roll call of Members and votes by cards with clerks are replaced by a computerized device that simultaneously receives and records votes cast by Members using the system during the voting period.

A master computer accepts votes and processes voting information for subsequent retrieval.

Verification of Vote; Changing Votes

A Member may verify that his vote has been properly recorded by re-inserting his card in an *Open* vote station. (Illumination of the button corresponding to the last vote preference will indicate that the vote has been recorded by the computer system.) In one instance, where the voting system failed for one minute, the Chair allowed Members additional time to check the board to verify whether or not their votes were recorded. 103–1, Sept. 29, 1993, p ____.

A Member may change his vote—if more than five minutes remain or on five-minute deferred votes—by simply depressing one of the other push-buttons. Changes made with less than five minutes remaining during a 15-minute vote must be made in the well, as are votes cast after the voting stations have been closed but prior to the Chair's announcement of the result. 94–2, Mar. 22, 1976, p 7394; 95–1, Jan. 4, 1977, pp 53–70; *Manual* § 774b. Vote changes generally, see § 25, *infra*.

Effect of Malfunction

Where the electronic voting system malfunctions or becomes inoperative, the Chair may direct that all recorded votes and quorum calls be conducted pursuant to the standby procedures prescribed in Rules I and XV. 93–1, May 16, 1973, pp 15860, 15861; 93–1, July 17, 1973, p 24171; 93–1, July 18, 1973, p 24653. In such a case, the Chair may direct the Clerk to call the roll alphabetically. 93–1, May 16, 1973, pp 15860, 15861. If the electronic system becomes inoperative during a record vote, the Chair may direct that the vote be taken *de novo* by clerks. 93–1, June 16, 1973, pp 23971, 23972. Or he may announce that Members who had been recorded prior to the malfunction of the electronic device will be included in the new tally of those voting. 93–1, Dec. 21, 1973, pp 43285, 43288, 43292. When the system again becomes operative, its use resumes at the Chair's discretion. 93–1, July 19, 1973, p 24919.

Recorded votes may be taken by electronic device although the display panels showing the vote totals and the Members' names and votes are inoperative, since Members can verify votes either at the monitors or by reinserting their cards in the voting stations. 95–1, June 6, 1977, p 17484; 95–2, June 21, 1978, p 18260; 99–1, Sept. 19, 1985, p 24245. A malfunction of the monitor at the majority or minority table will not prevent utilization of the electronic system where an alternate use of another monitor can be made. 93–2, Aug. 7, 1974, p 27219.

§ 3. Prohibitions Against Voting by Proxy or for Absent Members

Whether in the House or Committee of the Whole, Members must vote in person. 7 Cannon § 1014; *Manual* § 660b. No one other than a Member may cast a vote or record a Member's presence. A Member may not cast a vote on behalf of another Member, and an authorization to cast a Member's vote is forbidden by House rule. Rule VIII clause 3. *Manual* § 660b. It also has been held that one Member may not authorize another to enter his signature on a motion to discharge. 7 Cannon § 1014.

The use of an electronic voting card belonging to a Member who is *in absentia*—sometimes referred to as “ghost voting”—is considered a serious ethics infraction, and a Member's participation in such activity, either by direction or by subsequent acquiescence or ratification, is a matter warranting sanction by the House. In one recent case, the Committee on Standards of Official Conduct concluded that a Member had permitted such voting to occur; it found that while the evidence did not clearly demonstrate that the Member had concurrent knowledge that votes were cast in his name, he failed to take steps necessary to prevent unauthorized use of his voting card or to disavow votes that were cast in his name. H. Rept. No. 100–485. A resolution reprimanding the Member was agreed to by the House. 100–1, Dec. 18, 1987, p 36274.

B. Role of the Chair; Duties

§ 4. In General; Putting the Question

An essential step in bringing a pending proposition to a vote occurs when the Speaker or Chairman states and then puts the question as prescribed by the rules of the House. See Rule I clause 5; *Manual* § 629. The question, if in order, must be put (2 Hinds § 1312), it being Jefferson's view that it is a breach of order for the Speaker to refuse to put a question which is in order (*Manual* § 304).

A question may be put to a vote only by the Chair; it is not in order for a Member having the floor to usurp the role of the Chair in this regard, as by asking for a demonstration of support before the question is put. 95–1, Apr. 27, 1977, p 12548. The proposition as stated by the Chair in putting the question, and not as stated by the sponsoring Member, is the proposition voted upon. 6 Cannon § 247; 88–1, Dec. 4, 1963, p 23305.

Putting the question on engrossment and third reading on the passage of bills and joint resolutions is required by Rule XXI clause 1 (*Manual* § 830). However, where existing law requires the vote to occur on final pas-

sage immediately following the conclusion of general debate, the Speaker puts the question on final passage without putting the question on ordering the previous question or on engrossment and third reading. 99–1, Apr. 23, 1985, p 9085. The intent of such laws is to prevent intervening motions and questions once general debate has concluded, and to require an immediate vote on final passage. 99–1, Mar. 26, 1985, pp 6345, 6346.

§ 5. Voting by the Chair

Right to Vote

The Speaker has the same right to vote as other Members, and historically he has exercised this right even in contravention of early House rules attempting to limit his voting authority. 5 Hinds §§ 5964, 5966. See also *Manual* § 632. He may vote “aye” or “no” at any time prior to the final announcement of the vote. 92–1, Apr. 6, 1971, p 9785. On an electronic vote, the Speaker directs the Clerk to record his vote and verifies that instruction by submitting a vote card. 101–2, Oct. 17, 1990, p _____. On roll call votes by the yeas and nays, the Speaker’s name is not called except at his request, and then at the end of the roll. *Manual* § 632. Members other than the Speaker who are occupying the Chair vote by submitting a voting card to the Clerk who then enters the vote.

In the early history of the House, Speakers exercised the right to vote sparingly. In more recent Congresses, it has become more common for Speakers to vote, especially on important legislation. See 5 Hinds § 5964 (note).

Duty to Vote

The Speaker is not required to vote “except where his vote would be decisive. . . .” Rule I clause 6. *Manual* § 632. The Speaker may vote to make a tie and thus defeat a measure. 88–1, Aug. 22, 1963, p 15589; 89–1, Sept. 21, 1965, p 24635; 90–1, Aug. 24, 1967, pp 23918, 23926. Or he may vote to break a tie and so decide a question in the affirmative. 8 Canon § 3100.

§ 6. Chair’s Responsibility as to the Count

One of the responsibilities of the Speaker is to count the number of Members rising in support of, or against, a pending proposition, as where a vote is taken by division. The Chair has a duty to make a fair and honest count in such cases; one of the suppositions on which parliamentary law is founded is that the Speaker will not betray his duty to make an honest count of the vote. 5 Hinds § 6002. The integrity of the Chair in counting a vote

is not subject to a direct challenge. 8 Cannon § 3115; 99–1, July 11, 1985, p 18550. Appeals may not be taken from the Chair’s count of the number rising to demand a vote. 8 Cannon § 3105; 94–2, June 24, 1976, p 20390. Nor will an appeal lie from a count of those supporting the demand for the yeas and nays (95–2, Sept. 12, 1978, p 28950) or from a decision refusing recapitulation of a vote (8 Cannon § 3128). The remedy of a Member dissatisfied with the Speaker’s count of Members rising, as on a division vote, is to demand a vote of record. 8 Cannon §§ 3115–3118.

C. Rights and Duties of Members

§ 7. In General; Duty to Vote

The casting of a vote (or the refusal to cast a vote) is the responsibility of the individual Member. Although the rules state that Members “shall vote on each question put . . .” (Rule VIII clause 1), in practice the House does not enforce this provision. *Manual* § 658. The Speaker has no power to compel a Member to vote (5 Hinds § 5942) and House actions to compel a Member to cast a vote have been uniformly unsuccessful. 5 Hinds §§ 5943–5948. By the same token, the House does not excuse a Member from voting. And a unanimous-consent request in the Committee of the Whole to excuse a Member from voting is out of order. 89–1, Mar. 26, 1965, p 6096.

§ 8. Disqualification to Vote

Generally; Conviction of Crime

The precedents suggest that the House has no authority to deprive a Member of his inherent right to vote. 5 Hinds §§ 5952, 5966, 5967; 8 Cannon § 3072; *Manual* § 658.

The Code of Official Conduct provides that a Member who has been convicted of a crime for which a sentence of two or more years’ imprisonment may be imposed “should” refrain from voting in the House or Committee of the Whole until reinstatement of the presumption of his innocence or until he is reelected to the House. Rule XLIII clause 10. *Manual* § 939. The term “conviction” in clause 10 is construed to include a plea of guilty or a certified finding of guilt even though sentencing may occur later. H. Rept. No. 94–76.

Personal or Pecuniary Interest

Rule VIII provides that a Member is not required to vote where he has a “direct personal or pecuniary” interest in the question. *Manual* § 657. In rare instances the Speaker has ruled that a Member, because of his personal interest in the outcome, should not vote. 5 Hinds §§ 5955, 5958. But ordinarily the Member himself—and not the Chair—determines this question. 5 Hinds §§ 5950, 5951; 8 Cannon § 3071; 94–1, Dec. 2, 1975, p 38135; 96–1, Mar. 1, 1979, p 3748. The Speaker will not entertain a point of order challenging the personal or pecuniary interest of Members in a pending question, and will defer to the judgment of each Member as to the directness of his interest. 92–2, June 27, 1972, p 22554. See also 96–1, Mar. 1, 1979, p 3748.

A Member may disqualify himself from voting on a measure because of a pecuniary interest in the measure being considered. Thus, where a bill was pending relating to the reserves required to be maintained by certain banks, a Member disqualified himself on the vote because of a pecuniary interest in the matter. 86–1, July 1, 1959, p 12504. In one case, a Member announced a disqualifying personal interest in a pending bill and stated his intention to vote “present” on the issue. 90–2, Sept. 9, 1968, pp 26038, 26042.

Where the subject of a vote before the House affects an entire class, the personal interest of Members who belong to the class is not such as to disqualify them from voting. 5 Hinds § 5952. In one instance for example, during consideration of a bill providing financial assistance to states and political subdivisions, the Speaker indicated that the bill was sufficiently general in scope that Members holding municipal bonds or who had other financial interests dependent on the fiscal affairs of a particular city would merely be within a class of similarly situated individuals whose pecuniary interest would not be so direct as to preclude them from voting on the bill. 94–1, Dec. 2, 1975, p 38135.

D. Nonrecorded Votes**§ 9. In General; Voice Votes**

Votes not of record are those in which no official public record is required of the names or votes of the participating Members. There are two types of nonrecorded votes: voice votes and votes by division. See Rule I clause 5. *Manual* § 629. Authority for teller voting, a more elaborate proce-

cedure for taking a nonrecord vote, was eliminated from the rules in the 103d Congress. § 11, *infra*.

Voice votes are the simplest and most commonly used of all voting procedures. Such votes are based on the volume of sound produced by Members as they respond either “aye” or “no” to the question put by the Chair. 5 Hinds § 5926. See also *Manual* § 501. If the Chair is in doubt about the result, or if any Member requests it, a division vote is in order. *Manual* §§ 501, 629. In a division vote, those in favor and then those opposed are asked to stand and be counted (§ 10, *infra*).

The Speaker must put the pending question to a voice vote under Rule I clause 5 prior to entertaining a demand for a recorded vote or the yeas and nays. 102–2, Mar. 9, 1992, p ____.

§ 10. Voting by Division

Generally; Form

A demand for a division (standing) vote is in order following the taking of a voice vote. 90–1, Sept. 20, 1967, pp 26120, 26122. Under Rule I clause 5, after a voice vote, if the Speaker is in doubt or a division is called for, “the House shall divide; those in the affirmative of the question shall first rise from their seats, and then those in the negative. . . .” *Manual* § 629. Only one demand for a vote by division on a pending question is in order. 98–2, July 26, 1984, p 21259.

MEMBER: Mr. Speaker, I demand a division.

CHAIR: A division is demanded. As many as are in favor will rise and stand until counted. . . .

The ayes will be seated and the noes will stand.

Timeliness

A demand for a division comes too late when the Member making it is not on his feet seeking recognition at the time the Chair announces the result of the voice vote. 92–1, July 30, 1971, p 398. However, the announcement of a voice vote does not preclude a subsequent demand for a division providing no intervening business has transpired and the proponent of the motion for division was on his feet seeking recognition at the time of the announcement. 87–2, Jan. 23, 1962, p 771; 90–1, Sept. 20, 1967, pp 26120, 26122.

Precedence of Demand for Recorded Vote or Yea and Nay Vote

When the Chair has put the question and is in doubt as to the result of a voice vote, a demand for a recorded vote takes precedence over a demand for a division vote. 95–1, Feb. 24, 1977, p 5349. However, following

a voice vote in the Committee of the Whole, the Chair has on his own initiative under Rule I clause 5 requested and conducted a division vote before entertaining a demand for a recorded vote. 95–1, Oct. 20, 1977, p 34717.

A demand for the yeas and nays in the House under article I section 5 of the Constitution takes precedence over a demand for a division under clause 5 of Rule I. 103–1, Mar. 29, 1993, p ____.

A demand for the yeas and nays may be made before or after a division vote, or even while a division vote is being announced. See 5 Hinds § 6039. But a demand for a division vote is not precluded by the fact that the yeas and nays have been refused. 8 Cannon § 3103; 92–1, Nov. 9, 1971, p 40054.

Interruptions During the Count

The Chair generally declines to recognize Members while he is counting those standing on a division vote. His count cannot be interrupted by a demand for a recorded vote. 94–1, June 10, 1975, p 18048. Parliamentary inquiries are entertained before (not after) the Chair asks those in favor of the proposition to rise. 89–2, Sept. 29, 1966, pp 24455–57. A conference report may not be presented while the House is dividing. *Manual* § 909. Messages are not received during a division. *Manual* § 562.

Since a vote by division takes no cognizance of Members present but not voting, the number of votes counted by division does not necessarily establish a lack of a quorum. 100–2, June 29, 1988, p 16504. Accordingly, the Chair may interrupt the count of Members standing in favor of a proposition in order to count for a quorum pursuant to a point of order that a quorum is not present. 97–2, Aug. 5, 1982, pp 19658, 19659.

§ 11. Teller Votes

Under the earlier practice of the House, a Member could demand a teller vote if supported by sufficient Members. 5 Hinds § 5986. In a teller vote Members cast their votes by passing through the center aisle to be counted by Member tellers. First the Members voting “aye” proceeded up the aisle and were counted, and then the Members voting “no” were counted. Vote totals were announced but not the vote of each individual Member. Teller votes were considered a more accurate vote-counting procedure than either voice votes or division votes, but fell into disuse because of the advent of the electronic voting system. The rule authorizing a demanded teller vote was abolished in 1993. H. Res. 5, Jan. 5, 1993. Teller votes and the Speaker’s discretion, see § 18, *infra*.

E. Votes of Record

§ 12. Yea and Nay Votes; Recorded Votes

Yea and Nay Votes Distinguished

There are two primary methods of taking a vote of record in the House of Representatives. Voting by the yeas and nays is the preeminent method of voting in the House and is to be distinguished from recorded votes that are available under separate House rules. Yea and nay votes are made in order by the Constitution (U.S. Const. art. I § 5). Rule XV clause 4 orders the yeas and nays whenever a point of order is made that a quorum has failed to vote on a question put in the House (*Manual* § 774). Yea and nay votes are not in order in the Committee of the Whole. 4 Hinds §§ 4722, 4723; 94–1, Nov. 12, 1975, p 36147; 95–1, June 2, 1977, p 17292. Recorded votes, on the other hand, are available in both the House and the Committee of the Whole (*Manual* § 630a) and are taken pursuant to Rule I clause 5 (in the House) and under Rule XXIII clause 2(b) in the Committee.

Yea and nay votes are also to be distinguished from recorded votes in that demands for yea and nay votes require the support of only one-fifth *of those present* (§ 14, *infra*), whereas a recorded vote in the House requires the support of one-fifth *of a quorum*. Rule I clause 5. It is the Chair's statement of the demand, and not the Member's request, which controls whether one-fifth of those present or one-fifth of a quorum are required to support the demand. 97–1, Oct. 1, 1981, p 22760. In the Committee of the Whole 25 must stand to support the request for a recorded vote. Rule XXIII clause 2(b).

Demanding a Recorded Vote

Under the rules, a recorded vote is in order in the House or in the Committee of the Whole after the question has been put on a pending proposition if a demand or request for such a vote is made and if the request is supported by a sufficient number of Members:

CHAIR: The question is on the amendment offered by the gentleman from _____.

MEMBER: Mr. Speaker [or Mr. Chairman], I demand a recorded vote.

CHAIR: The gentleman asks for a recorded vote. As many as are in favor of taking this vote by a recorded vote will stand and remain standing until counted.

A demand for a recorded vote in the House under Rule I clause 5 must be supported by at least 44 Members (one-fifth of a quorum). 94–1, Oct.

20, 1975, pp 33004, 33005. See also 92-1, Nov. 4, 1971, p 39352; 94-2, Sept. 21, 1976, p 31668. The count of Members standing to support a demand for a recorded vote is not subject to challenge by appeal. 94-2, June 24, 1976, pp 20390, 20391.

A request for a recorded vote must yield to the constitutional prerogative of a Member to demand the yeas and nays (§ 14, *infra*). But a request for a recorded vote may be made following a demand for the yeas and nays, if that demand is withdrawn or does not receive a sufficient second. 92-2, June 28, 1972, p 22981; 96-1, Oct. 30, 1979, p 508. Even the Member who has withdrawn a demand for the yeas and nays may himself request a recorded vote under clause 5, Rule I. 92-1, Nov. 4, 1971, p 39352. And where one-fifth of the Members present have refused to order the yeas and nays on a motion, and that motion later becomes the unfinished business of the House, a Member may still demand a recorded vote on the motion. 94-2, Sept. 21, 1976, pp 31640, 31641, 31668.

Timeliness of Demand for Recorded Vote; Interruptions

A request for a recorded vote is in order only after the Chair has put the question. 93-2, Aug. 2, 1974, p 33623. It cannot interrupt a voice vote or a vote by division which is in progress. 94-1, June 10, 1975, p 18048. The demand is timely where it is made before the announcement of the voice or division vote. The demand is not timely if the Member making it is not on his feet seeking recognition at the time that the result of the vote is announced by the Chair. 94-1, Sept. 25, 1975, p 30233; 97-1, July 9, 1981, p 15202. Thus, the demand for a recorded vote on the question of passage of a bill is not timely if the Member making the demand is not on his feet seeking recognition for that purpose when the Chair announces the result of a voice vote thereon and announces that the bill is passed. 95-1, Oct. 19, 1977, pp 34223, 34224. However, a Member's demand for a recorded vote may be made after the Chair announces the result of a division vote if no other business has intervened. 95-1, June 7, 1977, p 17703.

A demand for a recorded vote on an amendment comes too late after the amendment has been voted on and agreed to and the Chair has inquired as to the purpose of another Member rising. 98-1, July 21, 1983, p 20187. However, a mere inquiry relating to a pending motion, raised after the Chair has announced the result of a voice vote, does not constitute such intervening business as to preclude the right of a Member to demand a recorded vote on the pending motion. 98-2, May 23, 1984, p 13928; 98-2, July 26, 1984, p 21250. In one instance, without objection, the Speaker vacated the proceedings by which a bill was passed by voice vote so that a Member,

who had been on his feet seeking recognition, could demand a recorded vote on the passage of the bill. 98–2, June 6, 1984, p 15164.

Repetition or Renewal of Demand

Only one request for a recorded vote on a pending question is in order. Thus, a request for a recorded vote on a pending question having been refused, a second request is not in order following a division vote on that question. 94–2, Jan. 21, 1976, p 508. Likewise, where a recorded vote is refused following the Chair’s announcement of doubt on a voice vote, and a division vote is then taken, the demand for a recorded vote may not be renewed. 95–1, Feb. 24, 1977, p 5349.

A similar rule is followed in the Committee of the Whole; where the Committee has refused a request for a recorded vote, the request may be renewed only by unanimous consent. 95–1, June 2, 1977, p 17292. A request for a recorded vote on an amendment once denied may not be renewed in Committee of the Whole even where the absence of a quorum is disclosed immediately following the refusal or where a quorum call has intervened. 96–1, June 6, 1979, p 13648; 97–1, July 16, 1981, p 16003; 98–1, Oct. 25, 1983, p 29227. However, while a request for a recorded vote once denied cannot be renewed following a quorum call in the Committee, the request remains pending where the Chair had interrupted its count of Members standing in support of the demand in order to count for a quorum. 97–2, Aug. 5, 1982, p 19658.

Withdrawal of Demand

A demand for a recorded vote may be withdrawn before the Chair begins to count Members supporting the demand, and unanimous consent is not required. 94–1, Sept. 17, 1975, p 38904. Withdrawal is likewise permitted without unanimous consent before the Chair has announced the count of Members standing in support of the demand. 95–2, Sept. 27, 1978, p 32058; 95–2, Oct. 14, 1978, p 38158.

Postponement of Vote

Unanimous-consent permission to postpone recorded votes in the Committee of the Whole must be obtained in the House and not in the Committee of the Whole. 103–1, June 28, 1993, p _____. Deferred votes, see § 23, *infra*.

§ 13. Ordering the Yeas and Nays

In General; When Required

The yeas and nays are usually in order only after they are demanded by a Member and the demand is supported by a sufficient number of Members. § 14, *infra*. But in some cases the yeas and nays are required by law or by House rule. Under the Constitution, a vote by the yeas and nays is required to pass a bill over the President's veto (U.S. Const. art. I § 7). See 4 Hinds § 3520; 7 Cannon § 1110. See also VETO OF BILLS.

The yeas and nays are to be "considered as ordered" when the question is put on certain measures such as bills providing general appropriations or income tax rate increases. Rule XV clause 7. And the yeas and nays are automatically ordered under the House rules when a vote has been objected to for lack of a quorum, thereby precipitating a simultaneous quorum call. § 16, *infra*. A vote by the yeas and nays is required to close a conference committee meeting under Rule XXVIII clause 6 (*Manual* § 913d). Such a vote may also be required by statute. See for example 19 USC § 1981 (Trade Expansion Program); 50 USC § 1545 (War Powers Resolution); 50 USC § 1622 (termination of national emergency).

Effect of Ordering

The ordering of the yeas and nays ordinarily brings the pending proposition to a vote but does not necessarily preclude all other business. A motion to adjourn may be admitted after the yeas and nays are ordered and before the vote has begun. 5 Hinds § 5366. A motion to suspend the rules and pass a bill has been entertained after the yeas and nays have been demanded on another matter. 5 Hinds § 6835. Consideration of a conference report (5 Hinds § 6457) or a motion to reconsider the vote by which the yeas and nays have been ordered (5 Hinds § 6029; 8 Cannon § 2790) has also been permitted to intervene.

Effect of Adjournment

An order for the yeas and nays remains in effect during an adjournment and is taken up whenever the bill again comes before the House. 5 Hinds §§ 6014, 6015; 8 Cannon § 3108. The House having reconvened, the question of consideration may not intervene so as to prevent a resumption of the yeas and nays. 5 Hinds § 4949. However, should a quorum fail to vote and the House adjourns, the question recurs *de novo* when the bill again comes before the House. 76–3, Oct. 10, 1940, pp 13534, 13535; 87–2, Oct. 13, 1962, pp 23474, 23475; 89–2, Oct. 19, 1966, p 27641.

§ 14. Demanding the Yeas and Nays

In General

A demand for the yeas and nays is in order after the question has been put to a voice vote (93–2, Oct. 2, 1974, p 33623), but a vote is taken only if a sufficient number of Members rise in support of the demand. Under the Constitution, the demand must be supported by one-fifth of the Members present. U.S. Const. art. I § 5. *Manual* § 75.

MEMBER: Mr. Speaker, I demand the yeas and nays.

SPEAKER: The yeas and nays are demanded. As many as are in favor of taking this vote by yeas and nays will rise and stand until counted.

(*So many*) have risen, not a sufficient number, and the yeas and nays are refused. [*Or*] (*So many*) have risen, a sufficient number, and the yeas and nays are ordered.

In contrast to a demand for a recorded vote, which requires the support of one-fifth of a quorum (§ 12, *supra*), on a demand for the yeas and nays the Speaker need determine only whether one-fifth of *those present* sustain the demand. 5 Hinds § 6043; 8 Cannon §§ 3112, 3115. Thus, if there are only 10 Members in the Chamber, two Members rising in support of the demand are sufficient. Indeed, it is well-settled that a quorum is not necessary to the ordering of the yeas and nays. 5 Hinds §§ 6016–6028; *Manual* § 76.

In ascertaining whether one-fifth of those present support a demand for the yeas and nays, the Speaker counts the entire number present as well as those who rise in favor of the demand. 8 Cannon §§ 3111, 3120. A request for a rising vote of those opposed to the demand is not in order. 8 Cannon §§ 3112–3114. The Chair ordinarily first counts those supporting the demand and then counts the House; latecomers are included in the count until closed by the Chair. 101–2, Sept. 24, 1990, p _____. The Speaker's count of the House on this question is not subject to appeal. 95–2, Sept. 12, 1978, p 28949.

When in Order

The Speaker must put the question before a demand for the yeas and nays is in order. See 93–2, Oct. 2, 1974, p 33623. The demand is in order after the Speaker has put the question to a voice vote, is announcing the result of a division (5 Hinds § 6039), and even after the announcement of such a vote if the House has not passed on to other business (5 Hinds §§ 6040, 6041). But a demand for the yeas and nays comes too late after the Speaker has put the question on a motion, announced the result, and the House has proceeded to other business. 86–2, Apr. 25, 1960, p 17671; 89–

2, Apr. 28, 1966, p 9230. It is likewise untimely where the Chair has put a question to a voice vote, announced the result, and by unanimous consent laid the motion to reconsider on the table. 95–2, Oct. 13, 1978, p 36976.

Precedence of Demand

Being of constitutional origin, a demand for the yeas and nays in the House takes precedence over a demand for a vote of record under clause 5, Rule I. 92–2, June 28, 1972, p 22981. A demand for the yeas and nays in the House under the Constitution likewise takes precedence over a demand for a division vote under clause 5 of Rule I. 103–1, Mar. 29, 1993, p ____.

Demands as Dilatory; Repetition of Demand

The constitutional provision authorizing a demand for the yeas and nays is liberally construed; the demand may be made by any Member (8 Cannon § 3110), and cannot be denied merely on the ground that it is dilatory (5 Hinds § 5737; 8 Cannon § 3107). However, the yeas and nays having been once refused may not be again demanded on the same question. 5 Hinds § 6029. It is not in order during the various processes of a division vote to repeat a demand for the yeas and nays that has been rejected. 5 Hinds § 6030; *Manual* § 77. A demand for the yeas and nays having been refused, and tellers then having been ordered, a second demand for the yeas and nays was held not in order. 90–2, June 26, 1968, pp 18938–40.

Withdrawal

When the demand for the yeas and nays has been supported by one-fifth of the Members present, it is too late for the Member making the demand to withdraw it. 86–2, May 26, 1960, p 11304.

§ 15. Voting by the Yeas and Nays

In General

Under the earlier practice, yea and nay votes were cast in response to the Clerk's call of the roll of Members in alphabetical order. *Manual* § 765. Today, yea and nay votes are almost invariably cast by use of the electronic voting system, and need not be cast in alphabetical sequence. However, the Speaker has the discretion to have the Clerk call the roll for the yeas and nays (*Manual* § 774b). And the Speaker may, in his discretion, direct the Clerk to call the roll, in lieu of taking the vote by electronic device, where a quorum fails to vote on the question and objection is made for that reason. 93–1, May 16, 1973, p 15850.

Reconsideration

A motion to reconsider a vote ordering the yeas and nays (5 Hinds § 6029; 8 Cannon § 2790) or refusing the yeas and nays (5 Hinds § 5692) is in order. A yea and nay vote itself is likewise subject to reconsideration. If the House (by a majority vote) agrees to reconsider, the yeas and nays may again be ordered (by one-fifth of those present). 5 Hinds §§ 5689–5691. But if the House, having reconsidered, again orders the yeas and nays, a second motion to reconsider is not in order. 5 Hinds § 6037.

Disclosure of Member's Vote

A Member's vote, whether "Yea," "Nay," or "Present," appears in the *Congressional Record* and, as required by the Constitution (U.S. Const. art. I § 5), in the House Journal. *Manual* § 75. However, there is no requirement that a Member's vote be announced publicly during the vote. 99–1, Sept. 19, 1985, p 24245.

§ 16. "Automatic" Yea and Nay Votes

On any vote in the House, the vote may be objected to for lack of a quorum under Rule XV clause 4, thereby precipitating a quorum call and a simultaneous "automatic" ordering of the yeas and nays. 95–2, Oct. 14, 1978, p 38553. That rule provides that "whenever a quorum fails to vote on any question, and a quorum is not present and objection is made for that cause . . . there shall be a call of the House . . . and the yeas and nays . . . shall at the same time be considered as ordered." *Manual* § 773. An automatic call results under this rule when the objection that a quorum is not present and voting is made in the House after a voice vote. 6 Cannon § 697. An automatic call under this rule is not in order in Committee of the Whole. 89–2, Aug. 2, 1966, p 17844.

The Speaker may direct that an "automatic" vote in the House be taken by electronic device, or may, in his discretion, direct the Clerk to call the roll. 93–1, May 16, 1973, p 15860.

The automatic call and vote that ensues under Rule XV clause 4 when a quorum fails to vote is applicable whether the House is voting *viva voce* (6 Cannon § 697), by division (6 Cannon § 691), by tellers (4 Hinds § 3053), or by the yeas and nays (6 Cannon § 703), but does not apply when the House is voting on some question which does not require a quorum, such as a motion incidental to a call of the House. 4 Hinds § 2994; 6 Cannon § 681. While a quorum is not required to adjourn, a point of no quorum on a negative vote on adjournment, if sustained, precipitates a call of the House under the rule. 6 Cannon § 700; 82–1, June 15, 1951, p 6621.

See also QUORUMS.

§ 17. Roll Call Votes

In General

Because of the availability of the electronic voting system (§ 2, *supra*), roll call votes are rarely taken under the modern practice. Today roll call votes are ordinarily taken only during the process of electing a Speaker—where the responses are the surnames of those nominated (*Manual* § 312)—or in the event of a malfunction of the electronic voting system (98–1, July 13, 1983, p 18844). Nevertheless, the Speaker has broad discretionary power to invoke a roll call vote (*Manual* § 774b), and he may, in his discretion, direct the Clerk to call the roll, in lieu of taking the vote by electronic device, where a quorum fails to vote on any question and objection is made for that reason (93–1, May 16, 1973, p 15850).

The Clerk calls the roll of Members in alphabetical order by surname. The Speaker’s name is called at the close of the roll. 5 Hinds § 5965. The roll is called twice—the second roll call being limited to those Members who failed to respond to the first call. A Member may cast his vote even after his name has been called provided the result of the vote has not been announced. 4 Hinds § 3052.

Interruptions

A motion to adjourn may be made before the roll call begins. 4 Hinds § 3050. And a roll call may be interrupted for the reception of messages (5 Hinds § 5602) and by the arrival of the hour fixed for adjournment *sine die* (5 Hinds §§ 6715–6718). However, a roll call may not be interrupted by:

- A motion to adjourn. 5 Hinds § 6053.
- A parliamentary inquiry. 5 Hinds § 6058; 8 Cannon § 3132.
- A question of personal privilege. 5 Hinds §§ 6058, 6059; 6 Cannon §§ 554, 564.
- The arrival of the hour fixed for another order of business. 5 Hinds § 6056.
- The arrival of the hour fixed for a recess. 5 Hinds §§ 6054, 6055; 8 Cannon § 3133.
- A conference report. 5 Hinds § 6443.

§ 18. Teller Votes With Clerks

“Tellers with clerks” refers to a voting method adopted in 1971 to make it possible to record the votes of individual Members in the Committee of the Whole. *Manual* § 630a. Under this rarely used voting practice, the Chair has the discretion to order the Clerk “to tell the names of those vot-

ing on each side of the question.” Rule I clause 5(a). Each Member is given a tally card on which he enters his voting preference and his signature. The Members then deposit these cards in ballot boxes located in the Chamber.

Tellers with clerks as a voting method fell into disuse in 1972 with the adoption of the more efficient electronic voting system (see § 2, *supra*). Tellers with clerks remains as a stand-by procedure to be used only in the event of malfunction of the electronic system or in the event the Clerk is unable to call the roll.

§ 19. Pairing

General Pairs; Specific Pairs

A pair is an informal agreement between Members on opposite sides not to vote on a specified question or for a stipulated time during their anticipated absence from the House. Since the pairing Members are on opposite sides, their absences do not effect the result of the vote. Pairing permits Members to indicate their position with respect to a question even though they will not be present when the vote is taken. Pairs are not counted in vote totals, but their names are published in the *Congressional Record*.

Pairing is permitted in the House by Rule XV clause 1 and Rule VIII clause 2. In 1975, the House amended the latter rule to permit pairing in Committee of the Whole. See 94–1, Jan. 14, 1975, p 20.

Pairing is only permitted prior to the announcement of the result of the vote. *Manual* § 660a. After the Speaker has announced the result of a vote it is too late for a Member to announce a pair with an absent Member. 92–2, Oct. 5, 1972, p 34166.

A Member may arrange to be paired with another Member on the opposite side through contact with a pair clerk. Such clerks are floor employees designated by the party leaderships. Pairing Members may provide for the commencement and termination of the pair on specific dates, and may indicate if desired the stand of each Member on measures to be voted on. Or a Member may indicate that he wishes to stand “with the Majority Leader” in being paired with another Member. See 8 Cannon § 3077.

“Live” Pairs

Live pairs involve an agreement between one Member who is present and voting and another on the opposite side of the question, who is absent. By agreement, the voting Member withdraws his vote and records himself as “present.” 91–1, Dec. 9, 1969, p 37996.

MEMBER: Mr. Speaker, on the vote just recorded I voted “Aye” (or “No”). I have a pair with the gentleman from _____ and desire to change my vote and be recorded as “Present.”

CHAIR: The Clerk will call the gentleman’s name.

Such announcements must be made before the vote is finally declared. 92–2, Oct. 5, 1972, p 34166.

Enforcement and Construction of Pair Agreements

The House does not consider questions arising out of the breaking of a pair (5 Hinds § 5982), nor will it permit a Member to vote after the call on the ground that he had refrained from voting because of misunderstanding as to a pair (5 Hinds §§ 6080, 6081). Neither the Speaker nor the House exercises jurisdiction over pair agreements. 5 Hinds § 6095; 8 Cannon §§ 3082, 3085, 3087, 3089, 3093. The interpretation of the terms, provisions, and conditions of a pair rests exclusively with the contracting Members. The House does not construe them or consider questions or complaints arising out of their violation. 8 Cannon § 3085. Such questions must be determined by the interested Members themselves. 5 Hinds §§ 5981, 5982.

Correcting the Record

The failure of the *Congressional Record* to accurately record a pair is subject to correction just as any other error in the Record. 8 Cannon § 3079. A Member may, by unanimous consent, correct the Record where a pair is not properly listed. 88–1, Dec. 10, 1963, p 22820.

F. Voting Periods; Time Limitations

§ 20. In General; Fifteen-minute Votes

Generally

Members have a minimum of 15 minutes from the time of the ordering of a recorded vote to be in the Chamber. Rule I clause 5 (*Manual* § 630a) and Rule XV clause 5(b) (*Manual* § 774b). Members who are in the Chamber at the expiration of that time will be permitted to vote prior to the announcement of the result by the Chair. 92–1, July 27, 1971, p 27373. And the Chair has the discretion to allow additional time for Members to record their votes before announcing the result. 93–1, June 6, 1973, p 18403.

Although Members have a minimum of 15 minutes in which to record their votes on a vote taken by electronic device, the Chair has discretion to close the vote and to announce the result at any time after 15 minutes have elapsed. Thus, no point of order lies against the decision of the Chair

in his discretion to close a vote taken by electronic device after 15 minutes have elapsed. 95–2, Mar. 14, 1978, p 6839.

Voting Alerts; Bell and Light System

A legislative call system alerts Members to the taking of a vote as well as the kind of vote and the duration of the voting period. This system uses bells and lights that are activated through clocks located throughout the House and its adjacent office buildings. *Manual* § 765a. Members should not rely on signals relayed from outside the Chamber to assume that votes will be held open until they arrive. 104–1, Jan. 4, 1995, p _____. A mechanical malfunction of this call system does not result in the retaking of a vote except by unanimous consent (8 Cannon §§ 3153, 3154), and such failure does not permit a Member to be recorded following the conclusion of the call. *Manual* § 765a. In one instance, the Committee of the Whole agreed to a unanimous-consent request that a recorded vote on an amendment be vacated and that a new recorded vote be taken on the amendment, where it was alleged that erroneous clocks outside the Chamber and on the televised proceedings had misled Members as to the amount of time available. 98–1, May 3, 1983, p 10773.

§ 21. Five-minute Votes in the House; “15-and-5” Votes

Generally

Although 15 minutes is the usual time to respond to an order for a recorded vote in the House, the Speaker has discretionary power, under some circumstances, to reduce such time to five minutes. The rules of the House (Rule I and Rule XV) permit the Chair in his discretion to order five-minute votes:

- On an underlying question immediately following a roll call vote on ordering the previous question. *Manual* § 774bb.
- On additional questions on which the Speaker has postponed further proceedings immediately following a 15-minute vote on the first such postponed question. *Manual* § 631. Generally, see § 23, *infra*.
- On final passage of a measure immediately following a 15-minute recorded vote on a motion to recommit. *Manual* § 774bb.
- On second and subsequent separate votes in the House on amendments reported from the Committee of the Whole immediately following a 15-minute vote on the first such separate vote. *Manual* § 774bb.
- On a pending question immediately following a regular quorum call in Committee of the Whole. *Manual* § 863. See also § 22, *infra*.
- On any or all pending amendments immediately following a 15-minute recorded vote on the first such pending amendment in Committee of the Whole. *Manual* § 864a. See also § 22, *infra*.

These votes, often referred to as “15-and-5” votes, are in order before other business intervenes. Thus, under clause 5(b)(1) of Rule XV, the Speaker has discretion to conduct “15-and-5” voting after a roll call vote has been ordered on the previous question on a proposition if the question of adoption follows without intervening business. 103–1, Feb. 3, 1993, p ____.

By Unanimous Consent

The House may by unanimous consent authorize the Speaker to reduce the time to respond to a recorded vote. Under this practice, the response time may be set at two minutes (100–2, Oct. 4, 1988, p 28126), although five minutes is the more customary time agreed to. 98–2, June 21, 1984, p 17709. Thus, by unanimous consent, the House may permit a reduction of time to five minutes on a subsequent record vote by electronic device, if ordered, on an amendment reported from the Committee of the Whole on which a separate vote has been demanded. 98–1, Nov. 8, 1983, p 31502; 99–1, Oct. 8, 1985, pp 26665–67. And in one instance, by unanimous consent, the House reduced to five minutes the minimum time for a required record vote on a motion to close a conference meeting, to be made immediately following another record vote previously postponed. 98–1, Aug. 1, 1983, p 22029.

§ 22. Five-minute Votes in Committee of the Whole

Discretion of Chair

Although 15 minutes is the usual minimum time for Members to respond to an order for a recorded vote in the Committee of the Whole, the Chairman has the discretion, under some circumstances, to reduce such time to five minutes. In 1979, Rule XXIII was amended to give the Chairman the discretion to reduce to five minutes the period for a recorded vote following a regular 15-minute quorum call. *Manual* § 863. An announcement of a possible five-minute vote must be made by the Chair in advance under this rule. 98–1, May 4, 1983, p 11063.

In 1991, Rule XXIII was further amended to extend the discretionary authority of the Chair to order five-minute votes with respect to electronic votes on amendments pending in the Committee. Where an electronic vote is pending on two or more amendments, and the vote has been taken on the first pending amendment and there is no intervening business, the Chair may in his discretion reduce the time for voting on the remaining amendments to five minutes. Rule XXIII clause 2(c).

By Unanimous Consent

The Chairman of the Committee of the Whole has on rare occasions entertained a unanimous-consent request to reduce the minimum period of time for a recorded vote to five minutes. In one instance, by unanimous consent, the Committee permitted consecutive subsequent recorded votes, if ordered on divisible portions of an amendment, to be five-minute votes by electronic device, where no debate time remained on any portion of the amendment. 98–1, Nov. 8, 1983, p 31497. But the Chair will not entertain such a request under circumstances (such as where debate has intervened after a previous vote) where Members may have inadequate notice of the reduction in time for voting. 98–2, June 27, 1984, p 19126; 99–1, July 10, 1985, p 18423.

§ 23. Deferred or Clustered Votes

The Speaker has the discretionary authority under Rule I clause 5(b), as amended in 1995, to postpone certain questions and to “cluster” them for voting at a designated time or place in the legislative schedule, and, after the vote on the first such question, to reduce to five minutes the vote on all of the additional questions so postponed. *Manual* § 631. The rule specifically applies to the questions of:

- Approval of the Journal.
- Passing bills or adopting resolutions (or moving the previous question thereon).
- Agreeing to motions to suspend the rules.
- Agreeing to conference reports or to certain motions to instruct conferees (or moving the previous question thereon).

These categories are not mutually exclusive. For example, the Speaker may “cluster” a vote on the approval of the Journal with motions to suspend the rules. 103–1, Mar. 29, 1993, p ____.

For all such categories, the postponement authorized by the rule must be to a time within two legislative days, with the exception of questions relating to the approval of the Journal. Such questions may be postponed only to a time on the same legislative day. *Manual* § 631.

The discretionary authority of the Speaker to postpone votes under this rule arises after a vote of record is ordered or when a vote is objected to for lack of a quorum. *Manual* § 631. Thus, under this rule, the Speaker may postpone the vote on the question of passage of a bill, where the vote has been objected to on the grounds that a quorum is not present. 99–2, Oct. 9, 1986, p 30104. The authority of the Speaker to postpone such a vote does

not continue once a record vote has commenced or once the Speaker has announced the absence of a quorum. 98–1, July 13, 1983, p 18844.

Where the proposition does not fall within one of the categories listed by clause 5(b), the Chair does not have discretionary authority to order a five-minute vote but may do so by unanimous consent. 99–2, Oct. 6, 1986, p 28704. Thus, since procedural motions to postpone are not included among those propositions on which the Speaker is authorized to cluster a vote, the Speaker may, by unanimous consent only, postpone the vote on such a motion. 98–1, Aug. 1, 1983, p 21900.

Under clause 5 of Rule I, the Speaker has the discretion to reduce the time to five minutes only on “clustered” record votes following the first vote in the series; and the first vote must be a 15-minute vote. Compare 98–1, Nov. 8, 1983, p 31510. The Speaker will not entertain unanimous-consent requests to reduce the first postponed record vote in a series to five minutes unless Members are adequately notified and unless it immediately follows a 15-minute vote on a pending matter. See 98–2, July 24, 1984, p 20675; 99–1, Oct. 8, 1985, pp 26665–67.

Once announced the Chair may redesignate the time for taking postponed votes within the permissible period. 98–2, June 6, 1984, p 15080.

In exercising his authority under this rule, the Speaker may announce that the consideration of certain postponed questions may be interrupted by other privileged business. 97–1, Dec. 15, 1981, p 31506. And the “clustering” of record votes on postponed matters does not prevent the Chair from entertaining a unanimous-consent request between postponed votes. 98–1, Feb. 15, 1983, p 2175.

§ 24. Time to Cast Vote

It is not in order, even by unanimous consent, to permit Members to have their votes recorded after the announcement of the result. 86–1, Mar. 12, 1959, p 4039; 86–2, May 12, 1960, p 10206; 92–1, Mar. 17, 1971, p 6809. It is too late for a Member to cast a vote on a recorded vote after the Chair has announced the result of the vote (92–1, May 12, 1971, p 14584), even though the Member states that he was in the Chamber prior to the announcement (92–1, Sept. 30, 1971, p 34291). Similarly, a Member may not be recorded on a yea and nay vote after the result of the vote has been announced (87–2, Mar. 29, 1962, p 5438), even though he was present in the Chamber during the vote (90–1, July 18, 1967, p 19300).

G. Vote Changes, Corrections, and Announcements

§ 25. In General; Vote Changes

A Member who has voted may change his vote at any time before the final announcement of the result of the vote. 5 Hinds §§ 5934, 6093, 6094; *Manual* § 766. At that time a “Present” vote may be changed as well as an “Aye” or “No” vote. 5 Hinds § 6060. But a Member may not withdraw his vote without leave of the House. 5 Hinds § 5930.

Changes in votes cast are barred following the announcement of the result of the vote. 5 Hinds §§ 5931–5933; 8 Cannon § 3124; 92–1, Nov. 9, 1971, p 40062. A Member may not change his vote even by unanimous consent after the result has been announced. 99–2, June 17, 1986, p 14038.

Where a vote is being taken by electronic device, Members are permitted to change their votes by reinserting their voting cards in the voting stations during the first 10 minutes of 15-minute votes (or by announcement in the well after the Chair has asked for changes) or at any time during five-minute votes. Following the expiration of the minimum time for voting by electronic device and the closing of electronic voting stations, but prior to the Speaker’s announcement of the result, any Member may either change his vote or cast an initial vote from the well by use of a ballot card. 94–1, Sept. 23, 1975, p 28951. See also § 2, *supra*.

Members who wish to change their votes on a recorded vote conducted by tellers with clerks may announce their vote change in the well prior to the announcement of the result. 93–1, July 11, 1973, pp 23156, 23161. If the correction is made prior to the announcement of the result by the Chair, unanimous consent is not required. 92–1, July 27, 1971, p 27374.

Where a Member changes his vote following a roll call and before the announcement of the result by the Chair, the change appears in the Record. This occurs even where the Member changes his vote twice, thereby reverting to his original voting stance. 91–1, Dec. 20, 1969, p 40456.

§ 26. Correcting the Record

Electronic Votes

The Speaker declines to entertain requests to correct the Journal and Record on votes taken by electronic device. The Chair presumes the technical accuracy of the electronic system if properly utilized and relies on the responsibility of each Member to correctly cast and verify his vote. *Manual* § 766; 93–1, Feb. 6, 1973, p 3558; 93–2, Dec. 3, 1974, p 37426. Recognition for such a request may be denied despite assurances by a Member that he had verified his vote by reinserting his card. 93–1, Apr. 18, 1973, p

13081. But the incorrect transcription by the official reporters of debates of a vote change announced in the well may be corrected in the Record by unanimous consent. 94–1, Sept. 24, 1975, p 30059.

The Speaker has declined to entertain a unanimous-consent request to correct a vote taken by electronic device although the Member was recorded as voting on a day when he was on leave from the House, no explanation having been offered for the discrepancy. 96–1, July 31, 1979, p 21660. For a report of the Committee on Standards of Official Conduct on voting anomalies, see H. Rept. No. 96–991, May 15, 1980.

Nonelectronic Votes

Where the electronic voting system is not in use, and a Member is incorrectly recorded on a roll call, he may correct his vote before the announcement of the result, with the corrected vote being properly recorded and the change duly noted in the Record. 87–1, Sept. 6, 1961, p 18256. *After* the announcement of the result of such a vote, while it is not permissible to change a vote, a Member may seek unanimous consent to correct the Record where his vote was incorrectly recorded or, though cast, was not recorded at all. 86–1, May 28, 1959, p 9335; 88–1, Sept. 10, 1963, p 16697. In entertaining such requests, the Chair does not pass judgment on the Member's explanation as to how he was improperly recorded or how, though present and having voted, he was not recorded, nor does he challenge the Member's word on how he voted during the roll call. See 86–1, May 29, 1959, p 9335. Indeed, when a vote actually given fails to be recorded during a call of the roll (5 Hinds §§ 6061, 6062), the Member may, before the approval of the Journal, demand as a matter of right that correction be made (5 Hinds § 5969; 8 Cannon § 3143). *Manual* § 766.

Members who have been incorrectly recorded on a nonelectronic vote taken by clerks pursuant to clause 5, Rule I have, by unanimous consent, had their votes corrected following the announcement of the result. 92–1, Mar. 18, 1971, p 7023. The Chair will not entertain such requests after further business has been transacted.

A Member, ascertaining that an absent colleague has been inadvertently recorded on a nonelectronic roll call vote, may have the vote deleted by unanimous consent, prior to the announcement of the result. 88–1, June 13, 1963, p 10871; 88–1, Aug. 12, 1963, p 14758.

§ 27. Recapitulations

A Member may not demand a recapitulation of a vote taken by electronic device. 94–1, July 30, 1975, p 25841. The recapitulation of such votes is refused because all Members may determine whether they were correctly

recorded by examining the display panel over the Speaker's rostrum (94–1, Sept. 17, 1975, p 28903) and because, even if the display panels are inoperative, individual votes and vote totals may be verified through the voting and monitoring stations (95–2, June 21, 1978, p 18260).

Record votes that do not involve the use of the electronic voting system are subject to recapitulation (5 Hinds §§ 6049, 6050) at the discretion of the Speaker (8 Cannon § 3128), either before or after the announcement of the result (8 Cannon § 3125). 86–1, Sept. 2, 1959, p 17752. See *Manual* § 765. But the Speaker may decline to entertain a request for a recapitulation of such a vote until after the announcement of the vote. 87–2, Oct. 12, 1962, p 23434. The greater the numerical difference between the vote totals, the greater the likelihood that the Speaker will decline to order a recapitulation. In one instance, the Speaker declined to order a recapitulation where the difference in the totals was as great as 10 votes (87–2, June 21, 1962, p 11383) but in another, the Speaker ordered a recapitulation where there was merely a three-vote difference (5 Hinds § 6050).

A Member may not change his vote on recapitulation if the result has been announced (8 Cannon § 3124), but errors in the record of such votes may be corrected (8 Cannon § 3125). Corrections of votes on recapitulation are made after the Clerk reads the names of the Members voting yea and again after the nays are read. 86–1, Sept. 2, 1959, p 17752.

§ 28. Announcements as to Voting Preference

A Member, having been absent for a recorded vote, may announce how he would have voted had he been present to vote. 86–1, May 20, 1959, p 8690.

MEMBER: Mr. Speaker, on roll call 125, I was late getting here as a result of _____. Had I been present I would have voted "aye." I ask unanimous consent that this statement appear in the Record following the announcement of the vote.

But neither the rules nor the practice permit a Member to announce after a record vote how absent colleagues would have voted if present. 6 Cannon § 200; *Manual* § 767.

H. Majority Votes; Super-majority Votes

§ 29. In General; Tie Votes

"The voice of the majority decides . . . where not otherwise expressly provided," wrote Jefferson, expressing a fundamental precept of parliamen-

tary law. *Manual* § 508. Most business that comes before the House is decided by a majority vote, and, by House rule, all questions relating to the priority of business are decided by a majority. Rule XXV. *Manual* § 900. Under a rule in effect since the first Congress, if the House vote on a proposition is a tie, the proposition is defeated. Rule I clause 6. *Manual* § 632. See also Hinds §§ 5926, 5964.

Two-thirds Votes

Under the Constitution or by House rule, a two-thirds vote is expressly required in the House on:

- Amendments to the Constitution. U.S. const. art. V. *Manual* § 190.
- Passage of bills over a veto. U.S. Const. art. I § 7. *Manual* § 104.
- Dispensing with Calendar Wednesday. Rule XXIV. *Manual* § 897.
- Dispensing with the call of the Private Calendar. Rule XXIV. *Manual* § 893.
- Same-day consideration of reports from the Committee on Rules. Rule XI clause 4b. *Manual* § 729a.
- Suspension of the rules. Rule XXVII. *Manual* § 902.
- Expulsion of a Member. U.S. Const. art. I § 5. *Manual* § 63.
- Removal of political disabilities. U.S. Const. Amendment XIV § 3. *Manual* § 230.

A two-thirds vote ordinarily means two-thirds of those voting, a quorum being present, and not two-thirds of the entire membership. Such a vote requires an affirmative vote by two-thirds of those Members actually voting; Members who indicate only that they are “present” are not counted in determining the two-thirds figure. 98–1, Nov. 15, 1983, p 32685. This method of computing a two-thirds vote is applied to votes on passage of a constitutional amendment (5 Hinds § 7027; 8 Cannon § 3503), to votes on the passage of a bill over the President’s veto (7 Cannon § 1111), and to a vote on a motion to suspend the rules (97–1, Dec. 16, 1981, pp 31850 *et seq.*).

Three-fifths Votes

Under a rule adopted in 1995, an income tax rate increase can be passed only by a vote of not less than three-fifths of the Members voting. Rule XXI clause 5(c).

A bill called up from the Corrections Day Calendar also requires a three-fifths vote for passage. Rule XIII clause 4(c).